

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Federal-State Joint Board on Universal)	
Service Seeks Comment on Proposals to)	FCC 05J-1
Modify the Commission's Rules Relating to)	
High-Cost Universal Service Support)	

**REPLY COMMENTS OF
THE NEBRASKA RURAL INDEPENDENT COMPANIES**

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SUMMARY

The Nebraska Rural Independent Companies (the “Nebraska Companies”) concur with other commenting parties in commending the efforts of the members of the Federal-State Joint Board on Universal Service (“Joint Board”) to attempt to develop plans for dealing with the wide range of universal service issues currently before the Federal Communications Commission (“Commission”).

The proposals generally do not contain sufficient detail in order to recommend that any of such proposals should be adopted. However, the Nebraska Companies believe the proposal recommending formation of separate funds for wireline and wireless carriers is a concept worthy of further consideration by the Joint Board. The Nebraska Companies believe that the continued use of embedded costs is the only appropriate means to determine costs for rural carriers at this time. The Joint Board should not accept the wireless carriers’ suggestions that the Joint Board should recommend to the Commission that a forward-looking cost proxy model should be constructed for rural carriers.

The Nebraska Companies also concur with commenting parties recommending that the Joint Board should not recommend changes to the universal service support mechanism until the Commission determines any possible changes it may make to the intercarrier compensation system and the universal service contribution mechanism.

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**REPLY COMMENTS OF
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I. INTRODUCTION

The Nebraska Rural Independent Companies (the "Nebraska Companies") hereby submit reply comments in the above captioned proceeding.¹ The Nebraska Companies appreciate the opportunity to reply to comments filed in response to a Public Notice ("Notice")² in which the Federal-State Joint Board on Universal Service ("Joint Board") seeks comment on proposals that several Joint Board members and staff have developed. The proposals offer solutions for addressing the issues of universal service for rural carriers and the basis of support for competitive eligible telecommunications carriers ("CETCs").

¹ The Nebraska Companies submitting these collective comments include: Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telco, Inc., Consolidated Telecom, Inc., Consolidated Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Company, Inc., K&M Telephone Company, Inc., Nebraska Central Telephone Company, Northeast Nebraska Telephone Co., Rock County Telephone Company, Stanton Telephone Co., Inc. and Three River Telco.

² See Public Notice, *Federal State Joint Board Seeks Comment on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, CC Docket No. 96-45, FCC 05J-1 ("Joint Board Proposals Notice") (rel. Aug. 17, 2005).

The Nebraska Companies join with many other commenting parties in commending the effort of the Joint Board members to attempt to develop comprehensive plans for dealing with the myriad of universal service issues before the Commission. The Nebraska Companies also concur with commentators that suggest that the Joint Board proposals do not contain enough detail to be acted upon at this time; rather, they represent concepts that may merit further study prior to adoption.

II. EMBEDDED COSTS SHOULD CONTINUE TO BE USED TO DETERMINE UNIVERSAL SERVICE SUPPORT AMOUNTS FOR RURAL COMPANIES.

A. The Forward-Looking Cost Proxy Model Developed To Determine Support Amounts For Non-Rural Companies Is Not Accurate.

The Commission is currently using the Hybrid Cost Proxy Model (the “HCPM” or “Synthesis Model”), which is a forward-looking cost proxy model, to determine universal service support amounts for non-rural carriers.³ Many of these carriers expressed concerns that the model is inaccurate and therefore may not distribute sufficient universal service support.

Verizon indicated that there has been continuing controversy as to whether the HCPM achieves the purposes for which it was intended.⁴ BellSouth Corporation (“BellSouth”) noted that it and other parties have demonstrated that the existing forward-looking cost proxy model used to calculate support for non-rural carriers serving high-

³ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, and *Forward-Looking Mechanism for High Cost Support for Non-Rural LECs*, CC Docket No. 97-160, Fifth Report and Order, FCC 98-279 (rel. Oct. 28, 1998) at para. 3.

⁴ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Comments of Verizon (“*Verizon Comments*”) (filed Sept. 30, 2005) at p. 13.

cost areas is deficient.⁵ Qwest Communications International, Inc. (“Qwest”) stated that “[t]he current results of the model-based support mechanism for non-rural carriers bear little relationship to reality. . . .”⁶

BellSouth and Qwest also offered greater detail regarding the deficiencies of the HCPM. BellSouth indicated that the model does not use a consistent set of line counts, customer counts, and road data, creating false economies of scale in which the number of lines is overestimated, while the model does not account for new development farther away from central offices.⁷ This leads to an understatement of non-rural carriers’ costs per line, and an understatement of such carrier’s need for universal service support.⁸ Qwest noted that the cost estimates produced by the model are highly dependent upon even slight changes in key input values and geographic data used by the model.⁹ Furthermore, in adopting the input values, the Commission acknowledged that it lacked a precise means of determining appropriate input values.¹⁰ The lack of precision in the inputs resulted in lack of precision in the outputs as well.¹¹

The information presented above, from carriers that receive support based on the HCPM and are therefore most familiar with it, indicates that the model is inaccurate for

⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, BellSouth Comments (“*BellSouth Comments*”) (filed Sept. 30, 2005) at p. 7.

⁶ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Comments of Qwest Communications International Inc. (“*Qwest Comments*”) (filed Sept. 30, 2005) at p. 22.

⁷ See *BellSouth Comments* at p. 7.

⁸ Id. at pp. 7-8.

⁹ See *Qwest Comments* at p. 22.

¹⁰ Id. at pp. 22-23.

¹¹ Id. at p. 23.

the very group of carriers for which it was designed. As discussed below, the Commission should not attempt to extend the use of a forward-looking cost proxy model to determine universal service support amounts for rural carriers. The expenditure of resources for such an effort will undoubtedly be great, however, the expenditure is not likely to produce an accurate estimate of costs, as demonstrated by the experience of non-rural carriers.

B. The Cost Of Modifying The Existing Forward-Looking Cost Proxy Model For Rural Companies Or Developing A New Model Will Outweigh The Benefits Of Such An Effort.

The previous section discussed the many inaccuracies currently present in the HCPM used to compute universal service support amounts for non-rural carriers. While the HCPM produces inaccurate results, such results cannot be attributed to a lack of time and effort on the part of the Commission and non-rural carriers in attempting to develop an accurate forward-looking cost proxy model. Given the experience of non-rural carriers, their recommendation is that the Commission should not attempt to modify the HCPM or develop a new forward-looking cost proxy model for rural carriers, as the costs of such an effort will outweigh the benefits.

Verizon indicated that it took the Commission over two years to adopt the HCPM currently used to compute non-rural high-cost universal service support.¹² Verizon stated that the cost and time to implement a new model or benchmark could be expected to take at a minimum the same amount of time.¹³ Qwest stated that a substantial expenditure of resources would be necessary to revise the Synthesis Model to address criticisms that the

¹² See *Verizon Comments* at p. 13.

¹³ *Ibid.*

model does not accurately measure cost in areas served by rural carriers.¹⁴ In considering this task, Qwest noted that “[t]he mind-numbing complexity of the Synthesis Model makes it difficult even for experienced modelers to understand the model’s results.”¹⁵ Qwest also indicated that the growing use of different technologies makes it even more problematic today to model the cost of providing service in a particular area.¹⁶ The use of different technologies leads to difficult decisions such as what technology should be assumed in the model and how the model will be updated to reflect changes in technology.¹⁷

BellSouth asserted that “the clear deficiencies present in the existing forward-looking cost model developed for non-rural carriers makes that model completely inappropriate for calculating high-cost support for rural carriers.”¹⁸ BellSouth recommended “[u]nless and until the Commission is able to develop a forward-looking cost model that can account for the legitimate cost differences among rural carriers and is free of the shortcomings of the existing model for non-rural carriers, it should continue to use embedded costs to calculate high-cost support for rural carriers.”¹⁹ Given the recommendations of Verizon and Qwest that the Commission should not attempt to modify HCPM or to develop a new forward-looking cost proxy model for rural carriers,

¹⁴ See *Qwest Comments* at p. 23.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Id.* at pp. 23-24.

¹⁸ See *BellSouth Comments* at p. 8.

¹⁹ *Ibid.*

the Nebraska Companies concur with BellSouth in recommending that the Commission continue to use embedded costs to calculate high-cost support for rural carriers.

C. Commenting Parties That Suggest A New Or Revised Cost Proxy Model Can Be Developed To Model The Costs Of The Most Efficient Carrier And Technology Do Not Have Sufficient Experience To Make Such Claims.

Several wireless service providers and their associations urged the Joint Board to recommend to the Commission that a single forward-looking economic cost model should be constructed to determine universal service support amounts. These recommendations extolled the theoretical virtues of using forward-looking economic costs to determine universal service support amounts, but failed to recognize the practical difficulties of such a recommendation. Given the lack of experience of wireless carriers in constructing forward-looking cost proxy models, the Nebraska Companies believe that the wireless carriers' recommendation should be given little weight. The Joint Board should instead rely upon the recommendation of non-rural carriers with experience in constructing forward-looking cost proxy models, which have suggested that the Commission should not attempt to develop a forward-looking cost proxy model for rural carriers given the general difficulty of constructing an accurate cost proxy model. A sampling of wireless carriers' recommendations regarding the use of a forward-looking cost proxy model to compute universal service support amounts, along with non-rural carrier observations regarding the practicality of these recommendations, are presented below.

Dobson Cellular Systems, Inc. ("Dobson") states "[a]lthough the Commission has not yet tried to create a forward-looking model for rural or wireless carriers, Dobson is

confident the effort can be successful.”²⁰ Dobson then suggests that problems inherent in applying the HCPM to rural carriers can be addressed by simply developing inputs based on rural carrier data.²¹ The Rural Cellular Association and the Alliance of Rural CMRS Carriers (“RCA-ARC”) also suggests that proxy model inputs should be developed for rural carriers, and “[n]o record evidence has been introduced that it cannot be done.”²² Clearly Dobson and RCA-ARC are not aware of the effort necessary to construct an accurate forward-looking cost proxy model. As discussed above, BellSouth and Qwest have identified structural problems with the models that are far more complex than simply developing a set of inputs to reflect rural carriers’ costs. Qwest also indicated that it believed the HCPM model inputs developed for non-rural carriers were inadequate. Given the greater variation in size and geographical characteristics of areas served by rural carriers, it is difficult to imagine that the issue of developing accurate inputs alone for rural carriers would not be even more complex than it was for non-rural carriers.

The statements of Dobson and RCA-ARC represent uninformed opinions, and are not useful in gauging the effort necessary to develop a new proxy model, nor the efficacy of such a model once it had been created. The Joint Board should rely on the experience of non-rural carriers with forward-looking cost proxy models, and should recommend that the Commission should not attempt to develop a forward-looking cost proxy model to estimate costs of providing universal service for rural carriers.

²⁰ See *Federal–State Joint Board on Universal Service*, CC Docket No. 96-45, Dobson Comments on Joint Board Proposals for High-Cost Universal Service Reform (“*Dobson Comments*”) (filed Sept. 30, 2005) at p. 6.

²¹ Id. at pp. 6-7 and footnote 18.

²² See *Federal–State Joint Board on Universal Service*, CC Docket No. 96-45, Comments of the Rural Cellular Association and the Alliance of Rural CMRS Carriers (filed Sept. 30, 2005) at p. 16.

III. THE PROPOSAL TO DEVELOP SEPARATE SUPPORT FUNDS FOR WIRELINE AND WIRELESS CARRIERS MERITS FURTHER STUDY.

A. Separate Support Fund For Wireline And Wireless Carriers May Better Fulfill The Universal Service Principles In The Act.

Some proposals, for example the USERP, propose that wireless CETCs would no longer be funded by “portable” universal service support that is based on the costs of incumbent wireline carriers.²³ Instead, the USERP proposes that wireless CETCs would instead be funded through a separate fund that would be available only to wireless carriers.²⁴

The Telecommunications Act of 1996 (“the Act”) contains the following universal service principle “[c]onsumers in all regions of the Nation including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”²⁵ One of the telecommunications services that Congress likely intended to be reasonably comparable in availability and rates between urban and rural areas is wireless service. The current universal service support mechanism is designed to support a generic universal service offering, which meets the definition of supported services established by the Commission.²⁶ However, because the current mechanism does not recognize differences

²³ See *Joint Board Proposal* Notice, “Universal Service Endpoint Reform Plan (USERP)”, proposed by Joel Shifman, Peter Bluhm and Jeff Pursley (“*USERP Proposal*”) Appendix D at p. 26.

²⁴ *Id.* at p. 27.

²⁵ See 47 U.S.C. § 254(b)(3).

²⁶ See 47 C.F.R. § 54.101.

in telecommunications services, it may not effectively support the offering of comparable telecommunications services at comparable rates between urban and rural areas for services such as wireless service. Therefore, the Nebraska Companies urge the Joint Board to further study the concept of developing separate support funds for wireline and wireless carriers to further universal service principles.

B. Wireless Carriers' Criticisms Of Separate Support Funds For Wireline And Wireless Carriers Are Without Merit.

Several wireless carriers and their associations criticized the *USERP Proposal*, and recommended that the Joint Board should reject the proposal to create separate funds for wireline and wireless carriers.²⁷ However, the Nebraska Companies believe the wireless carriers' arguments against the *USERP Proposal* are without merit, as discussed below.

Dobson and Sprint Nextel Corporation ("Sprint Nextel") object to the *USERP Proposal* for separate wireline and wireless support funds on the basis that wireless carriers may as a group contribute more funds to universal service support than they receive.²⁸ However, the Act requires that universal service contributions be equitable and nondiscriminatory²⁹ and that the mechanisms to support universal service should be specific, predictable, and sufficient.³⁰ As long as these conditions are met, the universal service support mechanism is not discriminatory. In fact, the very concept of universal

²⁷ See Comments of Sprint Nextel Corporation, Dobson, and CTIA – The Wireless Association™ cited in footnotes 28 and 31.

²⁸ See *Federal–State Joint Board on Universal Service*, CC Docket No. 96-45, Comments of Sprint Nextel Corporation ("Sprint Nextel Comments") (filed Sept. 30, 2005) at pp. 5-6 and *Dobson Comments* at p. 20.

²⁹ See 47 U.S.C. § 254(b)(4).

³⁰ See 47 U.S.C. § 254(b)(5).

service allows for the possibility that individual carriers or groups of carriers may be net payors into the fund. If individual carriers or groups of carriers were to receive an amount of support equal to the amount of funds they contribute to universal service, there would be little need for a universal service support system.

Sprint Nextel and CTIA – The Wireless AssociationTM (“CTIA”) maintain that the amount of support paid to an incumbent local exchange carrier (“ILEC”) must be made portable to all other CETCs within an incumbent local exchange carrier’s service area.³¹ CTIA asserts that the ruling by the Court of Appeals for the Fifth Circuit in *Alenco Communications, Inc. et al. v. FCC*,³² along with prior Commission rulings on universal service matters, make it clear that an ETC serving a given support area should receive the same amount of support per customer served as the ILEC receives.³³ In *Alenco Communications, Inc. et al. v. FCC*, the petitioners claimed that portability violates the statutory principle of predictability and the statutory command of sufficient funding.³⁴ The court found that the petitioners could not show that portability violates sufficiency or predictability. The court further noted that the purpose of universal service is to provide “sufficient” funding of the customer’s right to adequate telephone service.³⁵ While the court was asked to address whether the Commission’s current universal service portability rules were lawful in this case, the court was not asked to determine whether

³¹ See *Federal–State Joint Board on Universal Service*, CC Docket No. 96-45, Comments of CTIA – The Wireless AssociationTM on Joint Board High Cost Proposals (“*CTIA Comments*”) (filed Sept. 30, 2005) at pp. 7-8 and *Sprint Nextel Comments* at pp. 7-8.

³² See *Alenco Communications, Inc. et al. v. FCC*, 201 F.3d 608 (5th Cir. 2000).

³³ See *CTIA Comments* at pp. 7-8.

³⁴ *Alenco* at 618.

³⁵ *Alenco* at 621.

identical support amounts were required to be paid to all ETCs. In fact, because the sufficiency requirement applies to the customer's right to adequate telephone service, it would appear that the payment of different support amounts to different ETCs, with different underlying costs, would not violate the sufficiency requirement, as long as the support amounts would make comparable telephone service available to consumers.³⁶

IV. THE NEBRASKA COMPANIES URGE THE JOINT BOARD TO CONSIDER THE PROPOSALS IN A BROADER CONTEXT OF UNIVERSAL SERVICE ISSUES.

A. It Is Premature For The Joint Board To Consider Changes To The Universal Service Support Mechanism Given Pending Intercarrier Compensation Reform.

The Commission currently has an open proceeding addressing potential changes in intercarrier compensation.³⁷ Among the issues being addressed in the intercarrier compensation proceeding includes whether reduced access charge revenue should be offset with universal service funding,³⁸ how much additional support should be provided,³⁹ and how such support should be distributed.⁴⁰

Some of the commenting parties in the intercarrier compensation proceeding recommended moving costs currently recovered through access charges and reciprocal compensation to a universal service support mechanism.⁴¹ Proposals such as the *ICF*

³⁶ See 47 U.S.C. § 254(b)(3).

³⁷ See *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, FCC 05-33 ("Intercarrier Compensation Further Notice") (rel. Mar. 5, 2005).

³⁸ Id. at para. 108.

³⁹ Id. at para. 109.

⁴⁰ Ibid.

⁴¹ See *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Comments of the Intercarrier Compensation Forum (filed May 23, 2005).

Plan would result in major shifts in cost recovery and make many rural companies even more dependent upon universal service support than is currently the case. Thus, the Joint Board cannot judge the impact of the universal service proposals currently before it without first knowing the impact of changes in intercarrier compensation that the Commission may consider. Therefore, the Nebraska Companies concur with other commenting parties that suggest that the Joint Board should not recommend changes to the current universal service support mechanism until such time as the Commission determines if it will make changes to the intercarrier compensation system, and the impact of any such changes can be assessed.⁴²

B. It Is Premature For The Joint Board To Consider Changes To The Universal Service Support Mechanism Given Pending Universal Service Contribution Mechanism Changes.

The Commission also has an open proceeding addressing potential changes to the universal service contribution mechanism.⁴³ Without knowing the outcome of this proceeding, it will be difficult for the Joint Board to identify the amount of universal service funding that will be available. Absent such knowledge, the Joint Board cannot estimate the impact that proposals such as those for “block grant” funding would have on

⁴² See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Comments of AT&T Corp. on Proposals to Modify High-Cost Support Rules (filed Sept. 30, 2005) at pp. 2 and 7; Comments of the Frontier and Citizens ILECs (“*Frontier and Citizens’ Comments*”) (filed Sept. 30, 2005) at pp. 12-13.

⁴³ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Rely Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, CC Docket No. 98-171, *Telecommunications Service for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990*, CC Docket No. 90-571, *Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size*, CC Docket No. 92-237, NSD File No. L-00-72, *Number Resource Optimization*, CC Docket No. 99-200, *Telephone Number Portability*, CC Docket No. 95-116, *Truth-in-Billing and Billing Format*, CC Docket No. 98-170, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 02-329 (“*Contribution Mechanism Further Notice*”) (rel. Dec. 13, 2002).

individual states and carriers. Therefore, the Nebraska Companies concur with other commenting parties that suggest that the Joint Board should not recommend changes to the current universal service support mechanism until such time as the Commission determines the manner in which it may change the contribution mechanism, and the impact such a change will have on the amount of universal service funding available for distribution.⁴⁴

V. CONCLUSION

The Nebraska Companies commend the effort of the Joint Board members to develop comprehensive plans for dealing with the myriad of universal service issues before the Commission. The Nebraska Companies believe that the Joint Board should recommend the continued use of embedded costs to determine universal service support amounts for rural carriers. The Nebraska Companies urge the Joint Board to engage in further study of the proposal to establish separate universal service support funds for wireline and wireless carriers. Finally, the Nebraska Companies concur with other commenting parties that suggest that the Joint Board should not recommend changes to the universal service support mechanism until any pending changes to the intercarrier compensation mechanism and the universal service contribution mechanism have been determined by the Commission.

⁴⁴ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, National Telecommunications Cooperative Association Initial Comments (filed Sept. 30, 2005) at p. 14; Comments of the CenturyTel, Inc. (filed Sept. 30, 2005) at pp. 6-9; Comments of Fairpoint Communications. (filed Sept. 30, 2005) at p. 8; and *Frontier and Citizens' Comments* at p. 3.

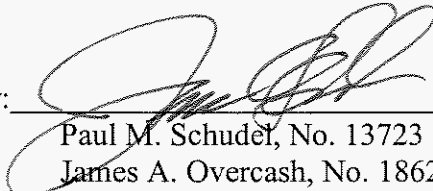
Dated: October 31, 2005.

Respectfully submitted,

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Hartington Telecommunications Co., Inc.,
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 31st day of October, 2005, true and correct copies of the foregoing **Reply Comments of The Nebraska Rural Independent Companies** were served by mailing the same via regular U.S. Mail, first class postage fully prepaid, addressed as follows:

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